REMARKS

The Office examined claims 1-13 and rejected same. With this paper, none of the claims are amended, none are added and none are canceled.

Claim Rejections under 35 USC §103

Claims 1-13 are rejected under 35 USC §103(a) as being unpatentable over Bantukul *et al.* (U.S. Patent Application Pub. No. 2003/0091020) in view of Calatrava-Requena *et al.* (U.S. Patent No. 6,748,229).

Claim 1 recites a method for executing a communication attempt (e.g. sending a short message) with a mobile terminal device in a cellular communication network having a Short Message Service Center (SMSC). The communication attempt is executed in accordance with attainability status of the mobile terminal device. The attainability status of the mobile terminal device is determined by evaluating connection related data stored in the SMSC. The connection related data is related to messages pending for delivery to the mobile terminal device (e.g. if there are messages pending for delivery, the mobile terminal device is not attainable, otherwise, it is attainable). If the mobile terminal device is attainable, the communication attempt to the mobile terminal device is executed.

Therefore, according to claim 1, whether or not a mobile terminal device is attainable for receiving a message is determined by querying the SMSC for connection related data relating to messages pending for delivery. This is different from attempting to deliver an actual message to the mobile terminal device.

In rejecting claim 1 on the ground of obviousness, the Examiner cites Bantukul for teaching delivering short messages to a mobile terminal device, but admits that Bantukul fails to teach a step of claim 1, "querying said SMSC in said cellular network for obtaining an attainability status of said mobile terminal device, by evaluating connection related data stored in said SMSC, wherein said connection related data is related to messages pending for delivery to said mobile terminal device." However, the Examiner then alleges that Calatrava-Requena teaches the above step and another step of claim 1, "delivering said communication attempt to

said mobile terminal device in accordance with said attainability status." Applicant respectfully disagrees with the Examiner's assertion.

Calatrava-Requena teaches sending messages from a first mobile terminal device subscribing to a first mobile network to a second mobile terminal device subscribing to a second mobile network. However, for the step of querying the SMSC for obtaining an attainability status of the (receiving) mobile terminal device, the steps S-202 and S-203 in Fig. 2 of Calatrava-Requena, cited by the Examiner, do not follow the same procedure as the above disclosed step of the present invention. In explaining the steps S-202 and S-203, Calatrava-Requena teaches the following (Col. 4, lines 57-67):

> 2. The SMS-GMSC (E-020) interrogates the Home Location Register (hereinafter sometimes referred to as HLR-2) (E-031) of the second PLMN (N-11) by means of a "Send Routing Information for Short Message (hereinafter SRI_SM)" signaling message (S-202) to retrieve the routing information necessary to forward the Short Message.
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> 3. The HLR-2 (E-031) returns to the SMS-GMSC (E-020) the routing information to forward the Short Message by means of a "SRI_SM ack" signaling message (S-203).

According to the above, step S-202 is a query sent by the message center of the first mobile network to the home location register (HLR) of the second mobile network for a routing information of the second mobile terminal device, so that a message can be forwarded to the second mobile terminal device at its current location. Step S-203 is a reply to the query S-202, providing the routing information of the second mobile terminal device.

The routing information obtained by the above procedure corresponds only to the current location of a mobile terminal device. It does not correspond to the attainability status of the mobile terminal device, e.g. whether the mobile terminal device is currently accepting messages, whether there are messages pending for delivery, or the like. Therefore, the procedure as described by Calatrava-Requena is distinctly different form the step of claim 1, "querying said SMSC in said cellular network for obtaining an attainability status of said mobile terminal device, by evaluating connection related data stored in said SMSC, wherein said connection related data is related to messages pending for delivery to said mobile terminal device."

Further according to Calatrava-Requena, after querying the HLR of the second mobile network for a routing information of the second mobile terminal device, the message center of the first mobile network forwards the message to the second mobile terminal device and receives

a delivery status report, in a manner identical to what is described as prior art in the instant application, i.e. delivering an actual message to the second mobile terminal device and reporting back the delivery status of the message (Col. 5, lines 1-17).

Therefore, the next step of claim 1, "delivering said communication attempt to said mobile terminal device in accordance with said attainability status", i.e. delivering an actual message only if the device is attainable, is also not taught by Calatrava-Requena.

Neither Bantukul nor Calatrava-Requena discloses all the limitations of claim 1. Therefore, it is not possible for a person skilled in the art to combine what is disclosed in Bantukul and in Calatrava-Requena to arrive at the current invention.

To establish a *prima facie* case of obviousness, the Patent Office must meet three basic criteria. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure (MPEP 706.02). For claim 1, none of the criteria are satisfied.

Accordingly, the current invention as recited in claim 1 is not obvious with regard to Bantukul in view of Calatrava-Requena. Applicant respectfully requests the rejection of claim 1 under USC §103(a) be reconsidered and withdrawn.

Moreover, claims 2-6 depend on claim 1. Claims 7-9 are software claims and claims 10-13 are apparatus claims that correspond to the method claim 1 and its dependents claims. Since claim 1 is believed to be patentable based on the above reasons, these claims are also believed to be patentable. Applicant respectfully requests the rejection of claims 2-13 under 35 USC §103(a) also be reconsidered and withdrawn.

Conclusion

For all the foregoing reasons, it is believed that all of the claims in the instant application are allowable, and their passage to issue is earnestly solicited. Applicant's agent urges the

Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.

Respectfully submitted,

Sept. 16, 2005

Date

Ware, Fressola, van der Sluys & Adolphson LLP
755 Main Street, P.O. Box 224
Monroe, CT 06468-0224
Telephone: (203) 261-1234
Customer No.: 004955

Shiming Wu
Agent for the Applicant
Registration No. 56,885